

Application Number: 09/487,027

Docket: 5333USA (6619)

During a telephone conversation with John O'Toole on July 23, 2001, a provisional election of Group I was made. Applicant hereby formally elects Group I and responds to the Examiner's subsequent Office Action, mailed on August 8, 2001. The Applicant would further like to thank the Examiner for his time spent during the telephone call.

### REMARKS

Claims 35 and 36 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 1-5 and 35-36 were rejected as being anticipated under 35 U.S.C. § 102 by U.S. Patent 5,115,625 to Noel K. Barbulesco et al. ("Barbulesco"). Finally, claims 6-9 were rejected as obvious under 35 U.S.C. § 103 by Barbulesco in view of U.S. Patent 4,550,549 to Nyles V. Reinfeld et al. ("Reinfeld"). Currently, claims 1-9 and 35-36 are pending in the present application.

#### I. As Amended, Claims 35-36 Are Not Indefinite.

Claims 35-36 have been amended to comply with 35 U.S.C. § 112, second paragraph. The phrases "elevator lift apparatus" and "goods" in claim 35 have been given proper antecedent basis. This antecedent basis carries over into claim 36. Claim 36 was corrected to delete the confusing "the" between "multiple" and "open." The rejection of Claims 35-36 under 35 U.S.C. § 112 is therefore moot.

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II. Claims 1-5 And 35-36 Are Not Anticipated As Amended.

Claims 1-5 and 35-36 were rejected under 35 U.S.C. § 102(b) as being anticipated by Barbulesco. Applicant respectfully traverses this rejection. In order to anticipate the present invention, Barbulesco must teach or disclose all of the elements of the claimed invention. Because each of the dependent claims depend from, and incorporate the limitations of, independent claim 1 or 35, only independent claims 1 and 35 are discussed below.

Barbulesco teaches a method and apparatus for packaging objects in boxes. Barbulesco raises the goods into the open bottom of the box utilizing an elevator 30 with a plate attached on the top. Then, with the elevator still in its upright position, a push flite 90 attached to a push flite chain 91 activates and pushes the box, and the objects contained therein, onto a curved plate 43 and a number of fixed supports 40a and 40b. The elevator of Barbulesco must remain in the upper position until the push flite 90 moves the box off of the elevator and onto the fixed supports 40a and 40b.

In contrast, claim 1 requires an apparatus that includes a support mechanism that supports the at least one good "in a position that is substantially the same position in which it was placed by the elevator", and claim 35 claims a method that requires "holding the at least one good supported inside the box by a support mechanism in a position that is substantially the same position where the at least one good was placed by the elevator lift apparatus." Accordingly, the elevator lift apparatus lifts the goods into the box where the support mechanism supports the at least one good in a position that is substantially the same position where the elevator placed the good. Because the support mechanism supports the good in substantially the position where the elevator placed the good, the elevator lift apparatus can immediately return to receive more

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goods. The elevator lift apparatus does not have to stay in the upper position until the box and goods are pushed off of the lift apparatus onto the support mechanism; the present invention apparatus and method results in a faster loading speed.

Thus, claims 1 and 35 of the present invention claim subject matter not disclosed, taught, or suggested by Barbulesco.

III. Dependent claims 2-5 and 36 Are Allowable

Because dependent claims 2-5 and 36 depend on independent claim 1 either directly or indirectly, the arguments presented above apply *a fortiori* to these claims. As such, each of the dependent claims are not anticipated or obvious in light of the above discussed references.

IV. The Claims Of The Present Invention Are Not Obvious Over Barbulesco In View of Reinfeld.

Claims 6-9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Barbulesco in view of Reinfeld. Applicant respectfully traverses this rejection. The arguments made above in response to the Examiner's anticipation rejection of Claims 1 and 35 based on Barbulesco are incorporated herein by reference. Because claim 1 is not obvious, claims 6-9 are not obvious.

As previously mentioned Barbulesco does not teach, disclose, or suggest the invention claimed in claim 1. Claims 6-9 depend directly or indirectly on independent claim 1 and therefore incorporate all of the limitations of independent claim 1. Because independent claim 1 is not anticipated or obvious in view of the prior art, and because the arguments presented above apply *a fortiori* to these claims, claims 6-9 are patentably distinct.

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**CONCLUSION**

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Marked-up Version Showing Changes."

In view of the amendments, it is urged respectfully that the objection of the claims be reconsidered and withdrawn, and that the claims be allowed. However, if the Examiner believes that any issues remain unresolved, he is invited to telephone the undersigned to expedite allowance.

Respectfully submitted,

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**MARKED-UP VERSION SHOWING CHANGES****IN THE CLAIMS**

1. (Amended) An apparatus for packaging goods in a box, comprising:
  - (a) a box erecting apparatus for erecting a box to receive at least one good; [and]
  - (b) a support mechanism operably positioned relative to the box erecting apparatus;
  - and
  - (c) an elevator lift apparatus operatively connected below the box erecting apparatus, [such that the elevator lift apparatus is positioned to lift at least one good into the erected box]  
the elevator apparatus having a first position and a second position wherein the elevator lifts the  
at least one good from the first position to the second position, the at least one good supported by  
the support mechanism, in a position that is substantially the same position in which it was  
placed by the elevator, while the elevator returns to the first position.
35. (Amended) A method for packaging goods in an open-bottomed container, wherein the open-bottomed container is an open-bottomed cardboard box with four upper flaps, comprising:
  - (a) unfolding the open-bottomed cardboard box;
  - (b) holding the unfolded open-bottomed cardboard box above an [the] elevator lift apparatus;
  - (c) activating [an] the elevator lift apparatus to raise an at least one good [the goods] into the open-bottomed cardboard box;
  - (d) after retracting the elevator lift apparatus, holding the at least one good supported  
inside the box by a support mechanism in a position that is substantially the same position where  
the at least one good was placed by the elevator lift apparatus; and

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- (e) folding the four upper flaps of the open-bottomed cardboard box.
36. (Amended) The method of claim 35, further comprising providing multiple [the] open-bottomed containers by a flat folded cardboard open-bottomed container dispensing apparatus.